

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. The foregoing amendments are fully supported by the specification and original claims, at least, in paragraph [0036]. No new matter is added.

Objection to the Specification

At page 2 of the Office Action, the Specification was objected to because it allegedly contains informalities. Applicants respectfully request reconsideration of this objection.

The specification had been objected to because the font was small and irregular, rendering the text difficult to read. A substitute specification was filed on June 11, 2006, but was not entered since it lacked markings to indicate modifications. It is noted that there is no way to indicate a change to the font using the markings specified in 37 C.F.R. §1.121 in these circumstances, i.e. when the specification text was not changed, but merely re-formatted. There were no changes to the text, but only to the font to improve the readability of the specification. The Examiner indicated in the telephone interview of November 2, 2006 that this objection would be withdrawn in light of the above explanation.

At page 2 of the Office Action, the specification was also objected to for failing to recite the foreign priority information in the first paragraph of the specification. As pointed out in the response filed June 11, 2006, only domestic priority information is required to be present in the first paragraph of the specification according to 37 C.F.R. §1.78. However, this information has been added to the first paragraph of the specification to advance prosecution.

For at least the foregoing reasons, Applicants respectfully submit that the

Specification is not objectionable, and therefore respectfully request withdrawal of the objection thereto.

Rejection under 35 U.S.C. § 112, first paragraph

In the Office Action, beginning at page 3, Claims 1-2 and 4-8 were rejected under 35 U.S.C. § 112, first paragraph, as reciting subject matters that allegedly contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully request reconsideration of this rejection.

The claims have been amended to add comparison language for each recitation of the increased copy number, thereby providing a proper context for determining the increase. Also, and as discussed during the interview of November 2, 2006, the language “replacing the native promoter with a stronger promoter” has replaced the rejected language regarding modifying an expression regulatory sequence. Although Applicants do not necessarily agree with the Examiner regarding the basis for these rejections, the amendments have been made to advance prosecution. It is asserted that the claimed invention is adequately described so that possession thereof by Applicants at the time of the invention is evident.

For at least the foregoing reasons, Applicants respectfully submit that Claims 1-2 and 4-8 fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

Rejection under 35 U.S.C. § 112, second paragraph

In the Office Action, beginning at page 4, Claims 1-2 and 4-8 were rejected under 35 U.S.C. § 112, second paragraph, as reciting subject matters that allegedly are indefinite. Applicants respectfully request reconsideration of this rejection.

As discussed during the November 2, 2006 interview, and as reflected in the Interview Summary, this rejection should be withdrawn since Applicants have amended the claims to recite the proper comparison language.

For at least the foregoing reasons, Applicants respectfully submit that Claims 1-2 and 4-8 fully comply with 35 U.S.C. § 112, second paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

Conclusion

For at least the foregoing reasons, Applicants respectfully submit that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Robinson believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

By: 
Shelly Guest Cermak
Registration No. 39,571

U.S. P.T.O. Customer No. 38108
Cermak & Kenealy, LLP
515 E. Braddock Road, Suite B
Alexandria, VA 22314
703.778.6608

Date: November 30, 2006